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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,853	05/27/2005	Pascal Aznar	103.001	4377
41754	7590	12/16/2008	EXAMINER	
THE JANSSON FIRM			MARTINEZ, BRITTANY M.	
9501 N. CAPITAL OF TX HWY #202			ART UNIT	PAPER NUMBER
AUSTIN, TX 78759			1793	
MAIL DATE		DELIVERY MODE		
12/16/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/536,853	<b>Applicant(s)</b> AZNAR, PASCAL
	<b>Examiner</b> BRITTANY M. MARTINEZ	<b>Art Unit</b> 1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 09 December 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-6 is/are pending in the application.

4a) Of the above claim(s)       is/are withdrawn from consideration.

5) Claim(s)       is/are allowed.

6) Claim(s) 1-6 is/are rejected.

7) Claim(s)       is/are objected to.

8) Claim(s)       are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on       is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No.      .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date      

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date      

5) Notice of Informal Patent Application  
 6) Other:

**DETAILED ACTION**

***Status of Application***

Applicant's arguments/remarks and amendments filed on December 9, 2008, have been carefully considered. **Claims 1-6** are pending in this application, with **Claims 4-5** amended. **Claims 1-6** have been examined.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in the prior Office action.

1. **Claims 1-6** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuji (XP-002198180).
2. With regard to **Claims 1-2**, Fuji discloses a column for flash chromatography comprising granular and porous silica gel having 42 µm granules with a pore size of 6 nm (Fuji, p. 1, "Properties of FL60D;" p. 2, "Flash chromatogram of BW-300").
3. With regard to **Claim 3**, Fuji discloses a column for flash chromatography containing 25 g of granular and porous silica gel (Fuji, p. 2, "Loading amount and performance").
4. With regard to **Claims 4-5**, Fuji discloses a column for flash chromatography manufactured with tubes and syringe bodies (Fuji, p. 1, "Flash chromatography system").

5. With regard to **Claim 6**, Fuji discloses a column for flash chromatography adapted to purify synthetic products in quantities of about 50 mg (Fuji, p. 2, "Loading amount and performance").

6. Fuji does not explicitly disclose the 42  $\mu$ m granules being spherical (**Claims 1 and 3**); or semi-spherical silica gel (**Claim 2**).

7. With regard to **Claims 1-3**, the granular silica gel of Fuji would appear to be spherical since silica gel utilized in flash chromatography is generally spherical to allow for ease of packing. It is noted that Applicant's Specification discloses spherical and semi-spherical porous silica gel comprised of "granules" (S. p. 2, "Detailed Description of the Invention") which would presumably be spherical or semi-spherical. Thus, the silica granules of Fuji would be considered spherical no less than the silica of Applicant's disclosure.

8. With regard to **Claim 2**, it is further well-known in the art that "semi-spherical" refers to something that has a somewhat spherical shape. Thus, a semi-spherical silica granule would be obvious in view of Fuji.

***Response to Amendments***

Applicant's amendments filed December 9, 2008, with respect to the Abstract and Claims have been fully considered and are accepted. The objections to the Abstract and Claims filed September 11, 2008, have been withdrawn.

***Response to Arguments***

1. Acknowledgment is made of Applicant's argument that Fuji does not disclose granules comprised between 3 and 45  $\mu\text{m}$  or semi-spherical gel (Applicant's Response, 12/9/08, p. 6); however, Fuji discloses 42  $\mu\text{m}$  granules (Fuji, p. 2, "Flash chromatogram of BW-300") and the granular silica gel of Fuji would appear to be spherical or semi-spherical since silica gel utilized in flash chromatography is generally spherical to allow for ease of packing. Further, it is noted that Applicant's Specification discloses spherical and semi-spherical porous silica gel comprised of "granules" (S. p. 2, "Detailed Description of the Invention") which would presumably be spherical or semi-spherical. Thus, the silica granules of Fuji would be considered spherical no less than the silica of Applicant's disclosure. Still further, it is well-known in the art that "semi-spherical" refers to something that has a somewhat spherical shape. Thus, a semi-spherical silica granule would be obvious in view of Fuji.
2. Applicant's arguments filed December 9, 2008, regarding Schwartz and the combination of Fuji and Schwartz (Applicant's Response, 12/9/08, p. 7) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Fuji (XP-002198180).
3. Acknowledgment is made of Applicant's Declaration filed December 9, 2008. The Declaration statements concerning the desirability of reduced pump pressure requirement, reduced back pressure (typically associated with increased particle size), and improved resolution of separation materials are acknowledged. Further

acknowledgment is made of the evidence provided in the Declaration concerning the unexpected result of sufficiently low back pressure in glass and plastic columns while maintaining high separation resolution, and the experiment performed using the equipment of Fuji with the claimed granule size, shape, and pores. Acknowledgment is made of the significant improvement in separation resolution of the instant application over the results in Fuji, as evidenced by the Declaration (Declaration, 12/9/08, p. 3, Table).

### ***Conclusion***

1. No claim is allowed.
2. In general, prior art renders the claimed invention obvious.
3. Applicant is required to provide pinpoint citation to the specification (i.e. page and paragraph number) to support any amendments to the claims in all subsequent communication with the examiner. **No new matter will be allowed.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRITTANY M. MARTINEZ whose telephone number is (571) 270-3586. The examiner can normally be reached Monday-Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached at (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wayne Langel/  
Primary Examiner, Art Unit 1793

BMM

/Brittany M Martinez/  
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